

Exhibit 1

(REDACTED VERSION OF
DOCUMENT TO BE SEALED)

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Page 319

1 UNITED STATES DISTRICT COURT
2 EASTERN DISTRICT OF MICHIGAN

3 - - - - -

4 JASON COUNTS, DONALD KLEIN, C.A. NO.
5 OSCAR ZANORA, DEREK LONG, 1:16-CV-12541-TLL-PTM
6 HASSAM HIRMIZ, JASON SILVEUS,
7 JOHN MISKELLY, THOMAS HAYDUK,
8 CHRISTOPHER HEMBERGER and
9 JOSHUA RODRIGUEZ, individually
10 and on behalf of all others similarly
11 situated,

12 Plaintiffs,

13 -against-

14 GENERAL MOTORS LLC, ROBERT
15 BOSCH GMBH, and ROBERT
16 BOSCH, LLC,

17 Defendants.

18 - - - - -
19 HIGHLY CONFIDENTIAL

20 VIRTUAL VIDEOTAPED DEPOSITION OF RYAN HARRINGTON
21 NATICK, MASSACHUSETTS
22 Thursday, July 23, 2020

23 VOLUME 2

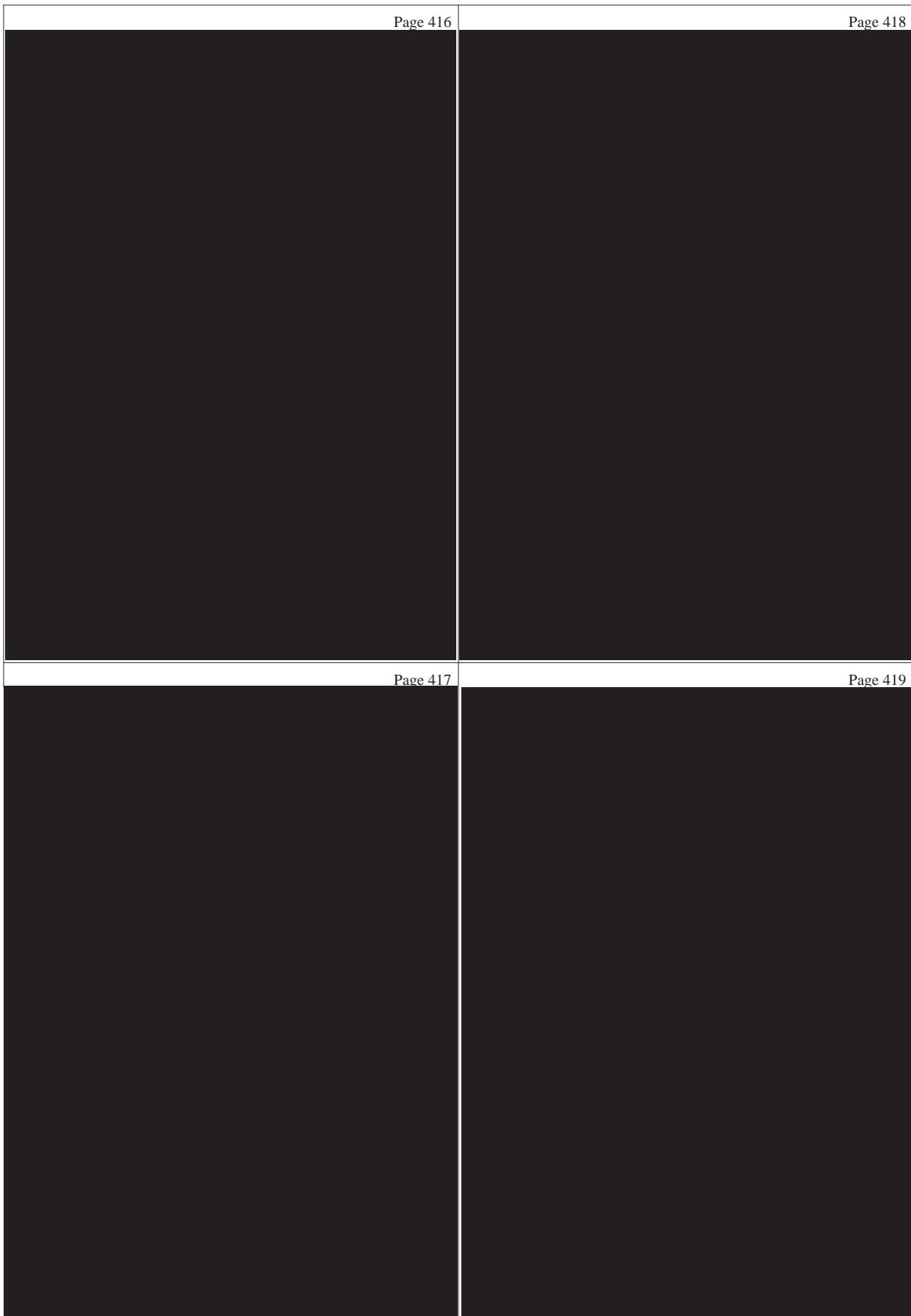
24 REPORTED BY:
25 ROBIN CLARK, RPR, CLR

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Page 320		Page 322	
1 Virtual Videotaped Deposition of RYAN		1 REMOTE APPEARANCES, continued:	
2 HARRINGTON, taken by Plaintiffs, pursuant to notice,		2 CLEARY GOTTLIEB STEEN & HAMILTON, LLP	
3 commencing at 10:12 a.m., by and before Robin L.		3 BY: DAVID BRODSKY, ESQ	
4 Clark, Registered Professional Reporter and Notary		4 PATRICK SWIBER, ESQ	
5 Public in and for the Commonwealth of Pennsylvania.		5 RENEE GRIFFIN, ESQ	
6 - - - - -		6 2000 Pennsylvania Avenue, N W	
7		5 Washington, D C 20006	
8		202-947-1588	
9		6 dbrodsky@cgsh.com	
10		pswiber@cgsh.com	
11		7 rgriffin@cgsh.com	
12		For the Defendant Robert Bosch	
13		8 LLC	
14		9	
15		ALSO PRESENT REMOTELY:	
16		10 STEVEN HURVITZ, ESQ	
17		11 HOWARD BRODSKY, VIDEOGRAPHER	
18		12 JUSTON SMITHERS	
19		13 ALI KRAL, TECHNICIAN	
20		14	
21		15 - - - - -	
22		16	
23		17	
24		18	
25		19	
1 REMOTE APPEARANCES:		20	
2		21 Page 321	
3 HAGENS BERMAN SOBOL SHAPIRO, LLP		1 I N D E X	
4 BY: GARTH WOJTANOWICZ, ESQ		2 WITNESS PAGE	
5 STEVE BERMAN, ESQ		3 RYAN HARRINGTON	
6 JESSICA THOMPSON, ESQ		4 BY MR WOJTANOWICZ: 327, 676	
7 1301 Second Avenue, Suite 2000		4 BY MS SMITH: 649	
8 Seattle, Washington 98101		5	
9 206-623-7292		6 E X H I B I T S	
10 garthw@hbsslaw.com		7 NUMBER DESCRIPTION MARKED	
11 sberman@hbsslaw.com		8 Harrington	
12 jthompson@hbsslaw.com		9 Exhibit 5 Dyno HP Coefficient 333	
13 For the Plaintiffs		10 Determination Bates	
14		11 GMCOUNTS000852163 to 852211	
15 CARELLA, BYRNE, CECCHI, OLSTEIN, BRODY &		12 Exhibit 6 Privately-Owned Vehicle 341	
16 AGNELLO, P C		13 Work Order Bates	
17 BY: JAMES E CECCHI, ESQ		14 GMCOUNTS000852050	
18 ZACHARY BOWER, ESQ		15 Exhibit 7 Privately-Owned Vehicle 346	
19 5 Becker Farm Road		16 Work Order Bates	
20 Roseland, New Jersey 07068		17 GMCOUNTS000851986 to 851987	
21 973-997-1700		18 Exhibit 8 Driver's Checklist Bates 346	
22 jceccchi@carellabyrne.com		19 GMCOUNTS000852149 to 852150	
23 zbower@carellabyrne.com		20	
24 For the Plaintiffs		21 Exhibit 9 Calculator Document Bates 362	
25		22 GMCOUNTS000852229	
1 SEEGER WEISS, LLP		23 Exhibit 10 HWFET Chart 373	
2 BY: SHAUNA ITRI, ESQ		24 Exhibit 11 Email dated 5/16/19 Bates 400	
3 1515 Market Street, Suite 1380		25 GMCOUNTS000852424	
4 Philadelphia, Pennsylvania 19102		26	
5 215-564-2300		27 Exhibit 12 Email String Bates 407	
6 sitri@seegerweiss.com		28 GMCOUNTS000852421 TO 852422	
7 For the Plaintiffs		29 Exhibit 13 07_GM Diesel PEMS 428	
8		30 Evaluation - MY14 Cruze	
9 KIRKLAND & ELLIS, LLP		31 Bates GMCOUNTS000379567 to	
10 BY: RENEE D SMITH, ESQ		32 379574	
11 KATE WARNER, ESQ		33	
12 300 North LaSalle		34 Exhibit 14 Deposition of Sarah Funk 449	
13 Chicago, Illinois 60654		35	
14 312-862-2000		36 Exhibit 15 Chevrolet Cruze Diesel 467	
15 rdsmith@kirkland.com		37	
16 kate.warner@kirkland.com		38	
17 For the Defendant General		39	
18 Motors LLC		40	
19		41	
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	<p style="text-align: right;">Page 648</p> <p>1 BY MS. SMITH:</p> <p>2 Q. Good afternoon, Mr. Harrington. I 3 just have a few questions for you this 4 afternoon. Do you recall Plaintiffs' counsel 5 asking you questions about the process for 6 drafting your expert report in this case, which 7 is Exhibit 1?</p> <p>8 A. I do.</p> <p>9 Q. And I believe you mentioned several 10 people from Exponent and from Analysis Group 11 who may have assisted in drafting and preparing 12 materials for that report. Do you recall 13 those?</p> <p>14 A. I recall providing a list of 15 people, yes.</p> <p>16 Q. Okay. And is this a report, which 17 is Exhibit 1 to this deposition, is this report 18 your opinions or is it the opinions of the 19 people who supported you in preparing it?</p> <p>20 A. So these are my opinions and this 21 was drafted at my direction.</p> <p>22 Q. And have you read everything in 23 this report?</p> <p>24 A. Yes.</p> <p>25 Q. Are the statements in this report</p>
	<p style="text-align: right;">Page 651</p> <p>1 yours?</p> <p>2 A. Yes.</p> <p>3 Q. And I believe we may have loaded 4 the next exhibit, which you don't have in hard 5 copy. Let's see if this worked. It did. So 6 Exhibit 23 should be open there.</p> <p>7 A. Okay.</p> <p>8 -----</p> <p>9 (CVs of Exponent Employees marked 10 Harrington Exhibit 23 for 11 identification.)</p> <p>12 -----</p> <p>13 BY MS. SMITH:</p> <p>14 Q. Do you have Exhibit 23 in front of 15 you?</p> <p>16 A. Yes, I have it on screen.</p> <p>17 MS. SMITH: Okay. Garth, do 18 you have it?</p> <p>19 MR. WOJTANOWICZ: I do, 20 thank you.</p> <p>21 BY MS. SMITH:</p> <p>22 Q. And I'm just going to tick through 23 this quickly, but the first page is a CV for 24 Jeffrey Wishart; is that correct?</p> <p>25 A. Correct.</p>

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<p style="text-align: right;">Page 672</p> <p>1 MR. WOJTANOWICZ: Object to 2 form.</p> <p>3 THE WITNESS: So there was 4 aspects of the single vehicle test that 5 were used, but there was additional 6 information that was used to determine 7 or to do the investigation. It wasn't 8 just based on that. That can tip them 9 off to it, but there's more work that 10 was done.</p> <p>11 BY MS. SMITH:</p> <p>12 Q. You've referenced throughout the 13 past couple of days various data and tests 14 related to the Cruze diesel's emissions 15 performance. I just want to tick through 16 those. Was one of the things you relied upon 17 in your report testing conducted in connection 18 with certification of the vehicle?</p> <p>19 A. Yes.</p> <p>20 Q. Have you seen anything suggesting 21 that the EPA has raised questions regarding 22 whether that certification testing is 23 unreliable?</p> <p>24 A. I have not seen any evidence like 25 that.</p>	<p style="text-align: right;">Page 674</p> <p>1 attorney. As an engineer, do you have to from 2 time to time use your engineering judgment to 3 determine what the most likely explanation is 4 for the facts that you're faced with? Do you 5 remember that question?</p> <p>6 A. Yes.</p> <p>7 Q. Based on your engineering judgment, 8 given the body of testing and data available 9 before this litigation, what is the most likely 10 explanation of why Mr. Smithers' test 11 results -- why Mr. Smithers' PEMS test results 12 came out as they did?</p> <p>13 MR. WOJTANOWICZ: Object to 14 the form.</p> <p>15 THE STENOGRAPHER: Wait a 16 minute, why Mr. Smithers what?</p> <p>17 MS. SMITH: Test results 18 came out as they did.</p> <p>19 THE WITNESS: So at the 20 multiparty inspection, there was 21 documented issues with the vehicle that 22 could have impacted things during the 23 testing. There was a test result on a 24 dyno test that was outside of the 25 limits, which obviously calls into</p>
<p style="text-align: right;">Page 673</p> <p>1 Q. Does Mr. Smithers opine that the 2 certification testing GM did for its 3 certificates of conformity was unreliable?</p> <p>4 A. I don't recall a discussion of that 5 in his report or deposition.</p> <p>6 Q. And you also relied on some of the 7 in-use testing that's discussed at Table 5-1; 8 is that correct?</p> <p>9 A. Correct.</p> <p>10 Q. Does Mr. Smithers opine that that 11 testing is unreliable?</p> <p>12 A. I don't recall a discussion in his 13 report or deposition on those -- on that topic.</p> <p>14 Q. To the best of your -- based on the 15 materials you reviewed, has the EPA questioned 16 whether the data, GM's in-use testing data is 17 unreliable?</p> <p>18 A. I've not seen any evidence along 19 those lines.</p> <p>20 Q. And is the answer the same with 21 respect to CARB?</p> <p>22 A. I've not seen any evidence that 23 CARB has concerns.</p> <p>24 Q. You were asked some questions or 25 you were asked this question by Plaintiffs'</p>	<p style="text-align: right;">Page 675</p> <p>1 question the reliability of that 2 vehicle. And then the way that Mr. 3 Smithers analyzed the data and his 4 discussion of AC use and other aspects 5 or of hills were understated.</p> <p>6 BY MS. SMITH:</p> <p>7 Q. In your engineering judgment, given 8 the issues with Mr. Smithers' single test 9 vehicle, are his PEMS tests reliable, PEMS test 10 results reliable?</p> <p>11 A. Based on the vehicle and how he 12 conducted the test, no.</p> <p>13 Q. Based on your experience, would it 14 be sound engineering judgment to rely on 15 testing of this one particular vehicle given 16 the issues you've discussed?</p> <p>17 A. No, and especially without any 18 investigation on his part to understand why he 19 got some anomalous results or verified that 20 repairs made during the testing were done 21 appropriately.</p> <p>22 MS. SMITH: I think that's 23 all I have. Let me -- we can just go 24 off and stay put for one minute. Let 25 me take one quick look and then I think</p>